UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1992/50/Add.1
17 February 1992

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-eighth session
Agenda item 19

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Report on the human rights situation in Haiti prepared by Mr. Marco Tulio Bruni Celli, Independent Expert, in accordance with Commission on Human Rights resolution 1991/77

Addendum

GE.92-10776/8813a

Introduction

1. The report on the human rights situation in Haiti submitted by the Expert to the forty-eighth session of the Commission on Human Rights covers the period from January to 15 November 1991. Since the latter date, however, further important developments have taken place in Haiti as regards the human rights situation, and therefore the Expert thought it necessary to submit this addendum. Moreover, in preparing it, the Expert is responding to General Assembly resolution 46/138, entitled "Human rights in Haiti", in which the Commission was requested, at its forty-eighth session, to consider the report of the independent expert and in which it invited him to submit an updated report to the Commission in the light of the events of 29 September and subsequent developments.

2. The present addendum to the report endeavours to summarize the various items of information gathered by the Expert during the period from 16 November 1991 to 12 February 1992. It covers three aspects: the evolution of the situation in Haiti since 16 November 1991; the principal violations of human rights; and the special situation of the "boat people", in other words, those Haitians who tried to flee the country after the coup d'état of 29 September.

I. EVOLUTION OF THE GENERAL SITUATION IN HAITI SINCE 16 NOVEMBER 1991

A. Political negotiations

3. On 23 and 24 November, a meeting was held in Cartegena de Indias, Colombia, between President Jean-Bertrand Aristide and a delegation of eight Haitian parliamentary representatives, including in particular the Chairman of the Senate, Dejean Belizaire and the Chairman of the Deputies, Duly Brutus. The fundamental purpose of this meeting, arranged under the auspices of the Organization of American States (OAS), was to find a negotiated solution to the political crisis in Haiti. Although no agreement was reached at this meeting, observers felt that the mere fact that it took place already demonstrated a political readiness to reach a negotiated settlement.

4. Since then, further talks have been held on the topic with varying degrees of intensity and at which a number of points were discussed:

(a) The full restoration of the rule of law and restitution of President Aristide;

(b) The designation of a new prime minister, by mutual agreement;

(c) The appointment of a new ministerial cabinet;

(d) The situation of the soldiers who led the coup d'état on 29 September; and

(e) The acceptance of a political agreement based on mutual respect between the branches of government and on a political and administrative programme.

5. The designation of a new prime minister was the first topic to be discussed. In December, the first possibility of agreement was glimpsed in Victor Benoit, General Secretary of the National Congress of Democratic Movements (KONAKOM), who then commanded the support of President Aristide and a large group of parlimentarians. When consensus was reached, the names that emerged were Marc Bazon, a former conservative presidential candidate and leader of the Movement for the Establishment of Haitian Democracy, and René Théodore, an opponent of Aristide and General Secretary of the Haitian Communist Party which is now called the Movement for National Reconstruction.

6. Further talks were held from 6 to 8 January 1992, between Aristide and the parliamentarians. Aristide finally agreed to the candidacy of Théodore but, only 10 days later on 18 January, fresh obstacles to the arrangement arose: the delegation of Haitian parliamentarians that should have travelled to Washington for joint talks with President Aristide, the candidate for the prime ministership, René Théodore, the OAS Secretary-General and the OAS civilian mission did not come to the meeting. Mr. René Théodore did not attend either and his absence was interpreted as a way of avoiding commitments that he would have been unable to fulfil as prime minister, particularly those concerning measures to be taken in connection with senior officers of the armed forces. It had been hoped that final agreements would be reached at that Washington meeting.

7. Some days later, there was an attack against René Théodore, who was already considered as the "Prime Minister-designate". On 25 January, the headquarters of his party, the Movement for National Reconstruction (MRN) were attacked by a commando of civilians carrying weapons. One of his bodyguards, Mr. Yves Jean-Pierre was killed, the lives of the others were threatened and they were beaten up and ill-treated by policemen in civilian clothing. This was the second such attack on the MRN headquarters; the first had been on 18 January 1992. Corporal Jean-Frederic Demosthène, who appeared to be the leader of the attackers was later arrested. The attack was condemned by the United States, which recalled its ambassador to Haiti, Alvin Adams, "for consultations". This attempt on Théodore's life has halted and virtually crippled the negotiations. It should be remembered that only a few days before Théodore was attacked on 22 January, Senator Thomas Eddy Dupuiton had asked the Haitian Congress to suspend the negotiations with the OAS supposedly to allow enough time to create new conditions to solve the crisis.

B. Repression and violence

8. During the period covered by this addendum to the report, the repression and the violence have continued. More cases of harassment, attacks, arbitrary arrests, torture and other forms of punishment have been recorded. Members of the civilian population have also been killed by armed groups. The repression intensified on the day before the anniversary of President Aristide's election. Thus, on 14 and 15 December soldiers continued to shoot and to terrify the population day and night. In the poorer neighbourhoods in particular, the police searched houses looking for President Aristide's supporters. Anyone who held any kind of political position or anyone suspected of having been a supporter of the Lavalas Movement, trade unionists and the clergy have suffered the greatest persecution by the police, the soldiers and the "Tontons Macoutes", who all work hand in glove.

9. The people who fled from the capital to the provinces after the coup d'état (it will be remembered that they were estimated to number about 300,000) are the most vigorously persecuted by the "section chiefs" in the interior of the country and in the rural areas. The "section chiefs", whose power was restored after the coup d'état, act with the protection of and on the instructions of the military. Those who used to work as leaders of social groups or cooperatives who were considered supporters of President Aristide are particular targets of persecution and many have been forced to go into hiding.

10. Not only have the "section chiefs" been restored to their former positions but the "Tonton Marcoutes" have re-emerged. They act with impunity, beating people up, ill-treating them, stealing, persecuting, accusing or detaining, arresting people, with the full protection of the military and "section chiefs". Consequently, the civilian population in the towns and in the countryside live in constant fear of the violence perpetrated by these "agents" of the State and the military.

C. Impact of the trade embargo

11. The trade embargo imposed by the countries of the Americas through OAS resolution (MRE/RES/2/91) and supported by a number of European countries had some impact on Haiti. Initially, it was seen as an effective way of helping to solve the political crisis. Later, especially early in December 1991, when the embargo was flouted by the arrival of the first oil tankers, the measure began to lose its effectiveness. From a complete paralysis of economic activity, and a shortage of energy, food and other essential items, the country moved on to a situation of scarcity but not a critical lack of supplies. The impact of the embargo on the poorer sectors of the population was mitigated by humanitarian aid channelled through a special OAS mission. At the time this addendum was completed the effects of the new policy announced by the Government of the United States were not yet known.

II. PRINCIPAL VIOLATIONS OF HUMAN RIGHTS IN HAITI SINCE 15 NOVEMBER 1991

Violation of the right to life, security and integrity of person

12. During the whole period from November 1991 to February 1992, summary executions continued, particularly in the poor districts of Port-au-Prince and in the provinces. According to reliable sources, many people were executed in the days before Christmas. Some persons were reportedly executed simply because their name was Aristide. Some important political figures were also executed, such as the Deputy for Pignon, Astrel Charles (of the National Agricultural and Industrial Party) who was shot dead on 15 December by the area's section chief. Killings have been used as a way of sowing terror and teaching people a lesson. These acts of violence committed by the armed forces, the police, the "Tontons Macoutes" and the section chiefs constitute a violation of article 3 of the Universal Declaration of Human Rights; article 4, paragraph 1, of the International Covenant on Civil and Political Rights; article 4 of the American Convention on Human Rights; and article 19 of the Haitian Constitution.

Violation of the right to protection against arbitrary arrest and detention

13. According to various reliable sources, there have been many illegal arrests, not only of President Aristide's supporters in the poor districts of Port-au-Prince but also of prominent politicians, elected local officials, leaders of political parties or movements, and so on. In December, Alex Leroy, Deputy Mayor of Jacmel, the justice of the peace of Hinche, Albert Thibaut, mayor of Gros Morne, Mrs. Regina de Vocy, sister-in-law of Franz Varella who had been Minister of Public Works in the Aristide Government were all arbitrarily detained. Eddy Sterlairt, member of the National Front for Change and Democracy (FNCD) was detained in Gonaives; on 15 December, members of the National Organization Movement (MOP) and other supporters of President Aristide were detained in La Arcahaie. Arrests are the combined work of paid spies, "Tontons Macoutes" violence and police action. Most of the persons detained are grass-roots activists and leaders, who are virtually all young people from 20 to 30 years of age. Nor are civil servants and teachers spared this repression and official action. At the beginning of December, some 30 secondary school teachers were arrested and at least 10 of them were dismissed from their jobs, in Jacmel. Pressure is exerted on primary school teachers to make them return to work, which they suspended after the coup d'état. President Aristide's supporters are often abducted and made to disappear. These arbitrary detentions constitute a violation of article 9 of the Universal Declaration of Human Rights; article 9 of the International Covenant on Civil and Political Rights; article 17 of the American Convention on Human Rights; and article 24 of the Haitian Constitution, which establishes that the State guarantees the freedom of the individual.

Violation of the right to protection against torture and against cruel, inhuman or degrading treatment or punishment

14. The soldiers and the "Tontons Macoutes" persecute the civilians, particularly in the poor districts, whom they beat up and arrest. This kind of repression was commonplace in the districts of Tiburón, Bouzi, Fort Liberté and St. Louis du Nord and elsewhere in December 1991 and January 1992. According to testimony received, most of the people arrested were subjected to violence while being taken to be held at the places of custody. These acts of torture and physical punishment constitute a violation of article 5 of the Universal Declaration of Human Rights; article 7 and article 10, paragraph 1, of the International Covenant on Civil and Political Rights; article 5 of the American Convention on Human Rights; and article 25 of the Haitian Constitution.

Violation of the right to protection of privacy and in particular the inviolability of the home

15. In December many homes were searched and ransacked. Even President Aristide's home in Tabarra was ransacked and his furniture and household goods taken away by soldiers. The homes of Jean-Batiste Chavannes and Deputies Mandenave Fignole and Milord met the same fate. The houses were looted and then set on fire. These inhuman and arbitrary acts constitute a violation of article 12 of the Universal Declaration of Human Rights;

article 17 of the International Covenant on Civil and Political Rights; article 21 of the American Convention on Human Rights; and article 43 of the Haitian Constitution.

Violation of the right to freedom of opinion, expression and the right to impart information and ideas

16. After the coup d'état, most of the radio stations which are the most effective means of disseminating information in Haiti, stopped broadcasting for different reasons. Some had been entered by the soldiers, others had received threats and others had stopped broadcasting for fear that expensive equipment might be destroyed. No independent radio station, other than the official station, broadcasts any news in Haiti. Radio Résistance Lavalas was seized by the military on 21 December. In the meanwhile, the radio stations of the "Tontons Macoutes" (Radio VSN and Serge Beaulieu's Radio Liberte) have come on the air inciting the people to murder and violence. There are known cases of journalists who have been abducted (Felix Lamy, for example); journalists who have been persecuted (Guy Delva, for example) and journalists who have been executed (Montlouis Lhérissé, for example). The press has met with the same fate: the mere fact of owning a copy of newspapers such as "Haiti Progess" and "Haiti en Marche" is sufficient grounds for arrest. During the entire month of December, there was an absolute prohibition on circulation for all of the media. This practice is contrary to international norms and constitutes a violation of article 19 of the Universal Declaration of Human Rights; article 19 of the International Covenant on Civil and Political Rights; article 14 of the American Convention on Human Rights and article 28 of the Haitian Constitution.

Violation of the right to freedom of association and peaceful assembly

17. December 1991 was a particularly difficult month for the trade unions and professional organizations and associations. Grass-roots organizations of all kinds were hit by the repression. Any meeting which was prohibited led to an immediate reaction by the armed forces and any attempts at demonstrations were put down. In the interior, the section chiefs distributed lists of the people who had to be detained. Young people, grass-roots organization activists, priests and members of the Lavalas Movement were the ones most persecuted. The Government of Haiti is thus systematically violating article 20 of the Universal Declaration of Human Rights; article 21 of the International Covenant on Civil and Political Rights; articles 15 and 16 of the American Convention on Human Rights; and article 3 of the Haitian Constitution.

III. SITUATION OF THE "BOAT PEOPLE"

18. Even before the coup d'état on 29 September, the Government of the United States, on the basis of a bilateral agreement with Haiti, regularly intercepted small boats carrying Haitian nationals in the international waters of the Caribbean Sea and then forcibly returned them to their country of origin. It is common knowledge that Dominican nationals who also arrive in Puerto Rico in boats are given the same treatment. Under President Aristide's Government, the exodus of Haitian boat people to the United States had significantly declined.

19. After the coup d'état on 29 September 1991, thousands of Haitians again began to set sail in small unseaworthy boats bound for the United States. The first boat taking Haitians to the United States was intercepted on 28 October 1991. By the end of January 1992, over 15,000 Haitians had been intercepted, according to official United States Government reports. It is also a fact that many of the boats were shipwrecked and the people on them were drowned. Such a large number of persons leaving Haiti had not been recorded in almost 10 years. Once these boat people are detained, they are taken to the naval base in Guantánamo in the south of Cuba, where they are interviewed by officials of the United States Government Immigration and Naturalization Service, their cases are examined and a decision is taken on whether or not to grant them refugee status.

20. This question of whether or not refugee status is granted has caused a problem. From the beginning, the United States administration announced that the reasons why the majority of the boat people were fleeing Haiti were essentially economic and not political and therefore not all of them could be granted refugee status. Another reason given was that it would be much less risky for them to go to the Dominican Republic by land, rather than by sea, in unseaworthy vessels, to the United States.

21. Around the middle of November 1991, Belize, Honduras, Jamaica, Trinidad and Tobago and Venezuela agreed to take in small groups of Haitian refugees. In the face of the rapid increase in the number of the boat people, the Government of the United States took the decision to step up its vigilance and to return to Haiti all those who had already been intercepted and were at the Guantánamo base.

22. The outcome of these events was a high number of applications to the United States federal courts in Florida by the legal branches of non-governmental organizations acting on behalf of the boat people. In their applications they argued that these people might be exposed to physical danger if they were returned to Haiti.

23. The judge of the district court issued an order in this case to suspend the forcible repatriations. In the meanwhile the mass media and the lawyers of the boat people were authorized to visit Guantánamo. It was said that approximately 33 per cent of the people would be able to obtain refugee status.

24. On 31 January 1992, at the request of the Attorney-General, the United States Supreme Court quashed the order issued by the district court. As a result, on 4 February, repatriation of the boat people to Haiti began. Official sources indicated that, up to 11 February, approximately 1,000 Haitians had been returned to Haiti.

25. The Inter-American Commission on Human Rights (IACHR) has, on two occasions, requested the Government of the United States to suspend the return of the Haitians. On 4 October 1991 and on 6 February 1992, IACHR asked for these measures to be halted on humanitarian grounds.

26. The problems facing the Haitian refugees were brought before the Office of the United Nations High Commissioner for Refugees (UNHCR) which has taken charge of the arrangements for them to be received in other Caribbean countries. The decision taken by the United States was criticized by UNHCR, which expressed concern about the violations of human rights and the violence on the part of the security forces since the fall of democratically elected government in Haiti. UNHCR said this was the reason why it feared that the returnees might be in danger on their return. It also said that it was not in a position to ascertain the safety of the persons who were being returned to Haiti.

27. According to the information received by the Expert, the Haitian returnees were received by the Customs authorities in Port-au-Prince, their fingerprints and general information about them taken, and they were photographed. Members of the International Committee of the Red Cross (ICRC) were also present when they arrived and gave each one nine dollars, to help him or her return to the interior of the country. According to the testimony of people who saw them arrive in Port-au-Prince, the boat people were not ill-treated by the authorities. However, they think that the exhaustive identification process to which the boat people were subjected makes for great suspicions as to what could happen to them later.

28. Considering that the human rights situation in Haiti has continued to deteriorate and that so far no solution has been found to the political crisis, the Expert reiterates each of the recommendations contained in his report.